

INITIAL STATEMENT OF REASONS

CALIFORNIA HEALTH FACILITIES FINANCING AUTHORITY

Sections 7051 through 7071 Title 4, Division 10 California Code of Regulations

INTRODUCTION

The California Health Facilities Financing Authority (the “Authority”) is organized and operating pursuant to Sections 15430 through 15462.5 of the California Government Code. The Children's Hospital Bond Act of 2008 (the “Act”), passed by the voters on November 4, 2008 charged the Authority with implementing a \$980 million grant program for California children’s hospitals (the “Program”). With the passage of the Act, the voters recognized the need to increase and expand the health care services provided by these hospitals to California’s critically ill children. The Authority seeks to add Sections 7051 through 7071 , to the Regulations in order to implement, interpret, and make specific Division 1, Section 1179.50 of the Health and Safety Code.

SECTION-BY-SECTION ANALYSIS

Section 7051 . Children’s Hospital Program Definitions

Health and Safety Code Section 1179.51 does not include certain terms and words, which are necessary to carry out and accomplish the purposes, objectives and provisions of the Act. Section 7051 restates the meaning of certain terms already defined in statute and defines additional terms that will be used. Additional terms such as “Most Recent Audited Financial Statements” (referenced in Sections 7052(a)(2), 7057(a), and 7059(e)) and “Going Concern Qualification” (referenced in Section 7052(a)(2)) are needed in connection with the evaluation of project readiness and feasibility, as provided in the statute. Terms such as “initial allocation”, “final allocation”, “first funding round”, and “second funding round” are added to clarify the granting and funding parameters of the Program.

The purpose of this regulation is to provide clarity and consistency in the use of certain terms in the administration of the program.

It is necessary to define terms and words used in the Act in order that they may be interpreted and applied in a uniform manner related to the Program’s requirements, criteria, and administration.

Section 7052 . Eligible Children's Hospital.

Health and Safety Code Section 1179.55 enables the Authority to award grants to any eligible children's hospital, as defined in Section 1179.51(b)(1) and (2) of the Health and Safety Code.

Section 7052(a)(1) through 7052(a)(4) mirrors this eligibility requirement. Sections 7052(a)(1) through 7052(a)(4) authorize the Authority to require applicants to provide a current, general acute care license, audited financial statements that do not contain any going concern qualifications, and a completed application form., and reasonable assurance that any projects involving architect, design and/or engineering fees, or acquisition of real property is a component of a larger project that will ultimately benefit the health and welfare of California's sick and/or injured children.

Sections 7052(a)(5) through 7052(a)(7) add additional specifications. 7052(a)(5) specifies that evidence of property ownership, or of a lease that satisfies the requirements of Section 7058, must be submitted if the applicant is proposing to use funds for a project other than equipment acquisition. This is necessary in order to ensure that funds are being granted for Projects at eligible children's hospitals. In addition, 7052(a)(6) and 7052(a)(7) specify that an applicant must provide assurance that projects that include acquisition of real property or architect, design, and/or engineering fees are components of a larger Project that will ultimately benefit the health and welfare of California's sick and/or injured children in accordance with the Act.

Section 7052(b) establishes that an applicant deemed ineligible may reapply when they meet the eligibility conditions of Section 7052(b). This section was added to provide clarity.

The addition of Section 7052 reflects and effectuates Health and Safety Code Section 1179.55, clarifies Health and Safety Code 1179.51.

Section 7053 . Maximum Grant, First Funding Round.

Health and Safety Code Sections 1179.56(a) and (b) and 1179.57(c), (d) and (e) specify the maximum grants available for specified eligible applicants and specifies that no grant can exceed the total cost of the project. Section 7053, and the definition of Maximum Grant for the First Funding Round which it incorporates, mirrors these sections of the Act.

Section 7053 also mirrors the Act's requirement that administrative costs and costs of issuance will be deducted from the maximum grant dollar amount available by incorporating the definition of Maximum Grant for the First Funding Round in Section 7051(w) which specifies that administrative and bond cost of issuance will be deducted from bond proceeds.

The addition of Section 7053 reflects and effectuates Health and Government Code Section 1179.57(h) and 1179.67 and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7054 . Maximum Grant, Second Funding Round

Health and Safety Code Sections 1179.57(c) and 1179.57(d) specify that if funds available under Health and Safety Code 1179.56 (a) and (b) have not been exhausted by June 30, 2018, the funds will become available for any defined eligible hospital. The Code does not specify how the process will be determined. The purpose of Section 7054 is to clarify that the process for determining maximum grants for the second funding round will be established at a future date, but no later than June 1, 2018.

The addition of Section 7054 reflects and effectuates Health and Safety Code Sections 1179.56 (a) and (b) and 1179.57 (c) and (d)..

Section 7055 . Application Form.

Health and Safety Code Section 1179.57(a) directs the Authority to develop a written application in order to evaluate certain criteria.

The addition of this regulation establishes the need for an applicant to submit an application to be considered for a grant award. The application is referred to as Form #CHFFA 5, Rev. 01-2009-3 in Section 7051(d) as well as The Children's Hospital Overview and Instructions for Grant Application, Form #CHFFA 5A, Rev. 01-2009-3 in Section 7055. The overview is referred to as the Children's Hospital Overview and Instructions for Grant Application, Form #CHFFA 5A, Rev. 01-2009-3 in Section 7055. The application form and instructions are identified and incorporated by reference.

The addition of Section 7055 reflects and effectuates Health and Safety Code Section 1179.57(a) and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7056 . Application Form Submission.

Health and Safety Code Section 1179.57(b) requires submission of an application but does not specify the time and manner of submitting an application to the Authority.

The addition of this section establishes the time and manner of submitting an application to the Authority.

The addition of Section 7056 reflects and effectuates Health and Safety Code 1179.57(b).

Section 7057 . Content of Application Form.

Health and Safety Code Section 1179.57(a) directs the Authority to develop a written application in order to evaluate certain criteria. The purpose for Section 7057 is to specify the information that must accompany an application including financial information, organizational information, legal information, and an application agreement and certification and will enable the authority to obtain an application containing information needed to evaluate eligibility criteria:

7057 (a) requires applicants to provide their Most Recent Audited Financial Statements , so that the Authority may perform its due diligence related to project feasibility and readiness.

7057 (b) requires documentation to support the applicant's tax-exempt status as specified in Health and Safety Code Section 1179.51(b). 7057(b) also requires a current copy of the license to verify that the hospital as a general acute care as specified in 1179.51 (b). In addition, Section 7057(b) requires a hospital to submit a copy of the Articles of Incorporation to verify a hospital's legal identity and corporate status.

7057(c) requires that an applicant fully disclose certain legal information. This information is reasonably necessary to evaluate the legal viability and integrity of an applicant. A negative response by an applicant may result in disqualification from consideration. All programs administered by the California Health Facilities Financing Authority require such legal disclosure in response to the Legal Status Questionnaire, which is incorporated by reference.

7057 (d) requires an authorized officer of the applicant to complete and execute an agreement and certification to certain terms and conditions to receive a grant. This Section also provides that this certification will be memorialized in a grant agreement. The purpose of the provision is to ensure that applicants meet and acknowledge the requirements of the Act as made specific by these Regulations.

7057 (d)(1) requires an applicant to certify that the application is true and correct.

7057 (d)(2) mirrors Health and Safety Code Section 1179.57 (f) that specifies an applicant may be required to return all or a portion of a grant for failure to complete a project as approved.

7057 (d)(3) requires an applicant to agree that Grant funds will only be used for the Project described in the Application Form unless a change in the Project is approved in writing by the Authority pursuant to Section 7064. This requirement is necessary to ensure that grant funds were used for the intended purposes as awarded pursuant to Health and Safety Code Section 1179.51 and Section 1179.55.

7057 (d)(4) requires an applicant to agree and acknowledge that project and financial records are subject to audit and inspection by the Bureau of State Audits as provided in Health and Safety Code Section 1179.58 . **7057 (d)(4)** also requires an applicant to agree and acknowledge that project and financial records are subject to audit and inspection by the Authority. This requirement is reasonably necessary to ensure that grant funds were used for the intended purposes as required pursuant to Health and Safety Code Section 1179.57(f) .

7057 (d)(5) requires applicants to certify that all legal information requested by the legal status questionnaire has been disclosed or that there is no such information to disclose.

7057 (d)(6) details Health and Safety Code Section 1179.57 (f) that requires applicants to notify the Authority in writing at the time of project completion and to certify and document that the project is complete.

7057 (d)(7) requires applicants to agree to meeting all necessary requirements prior to release of a grant.

Section 7058 . Application Form Evaluation.

Health and Safety Code Section 1179.57(a) specifies that the Authority must develop a written application and a process for awarding grants, taking into account at least certain factors when selecting recipients and determining grant amounts. Section 1179.57(b)(2) specifies that the authority shall award grants in a period not to exceed 60 days, but does not specify due dates and does not specify that legal questionnaire answers may result in becoming ineligible.

Section 7058 clarifies the timeframe in which applications will be evaluated.

The addition of Section 7058 reflects and effectuates Health and Safety Code 1179.57.

Section 7059 . Evaluation Criteria.

Health and Safety Code 1179.57 specifies that the Authority may develop evaluation criteria and a process for awarding grants, taking into account at least certain factors when selecting recipients and determining the amount of the grants. The purpose for Section 7059 is to detail the evaluation criteria, including those factors, that will be reviewed by the Authority including how well the project contributes to the population served, how well the children's hospital contributes to the population served, applicant's demonstration of project readiness and feasibility, sources and uses of funds, and financial capacity of applicant.

7059 (a) is to evaluate how well the grant will contribute to:

(1) the expansion or improvement of health care access by children eligible for governmental health insurance programs and indigent, underserved, and uninsured children.

(2) the improvement of child health care or pediatric patient outcomes.

7059 (b) is to evaluate how well the children's hospital applying for the funding:

(1) provides uncompensated indigent care or undercompensated care to pediatric patients.

(2) provides services to vulnerable pediatric populations.

(3) promotes pediatric teaching programs or pediatric research programs.

7059 (c) makes specific the manner in which an applicant must demonstrate to the Authority that it meets the requirements of Health and Safety Code Section 1179.57(a)(6) that specifies the applicant must demonstrate project readiness and feasibility.

7059 (c)(1) requests a timeline for project completion for the Authority to evaluate project readiness and feasibility.

7059(c)(2) specifies the information that must be submitted to demonstrate readiness for different types of projects.

7059 (c)(3) requires applicants to submit evidence of the feasibility of implementing a project. It is necessary to require information supporting an assertion that an applicant is ready to commence a project.

7059 (d) requires applicants to submit the sources and uses of funds. The requirement enables the Authority to assess the feasibility of the funding plan for the project.

7059 (d)(1) details the sources and uses of funds for the proposed project and ensures that an applicant's project meets the Health and Safety Code Section 1179.57(e) requirement that a grant may not exceed the cost of the project.

7059 (d)(2) ensures that applicant's project meets the Health and Safety Codes Section 1179.51 (ee) eligible project definition, by requiring an applicant to detail sources of funds to be used for portions of the proposed project that would otherwise be ineligible for grant funding.

7059 (e) enables the Authority to evaluate the financial capacity of an applicant. The requirement is of a procedural nature and is needed in order to demonstrate feasibility and readiness.

The addition of Section 7059 reflects and effectuates Health and Safety Code Section 1179.57 and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7060. Notification and Initial Allocation.

Section 7060 specifies the process for notifying applicants of the proposed amount of grant allocation.

The addition of this section establishes the process for notifying applicants of their proposed initial allocation after applications have been evaluated.

The addition of Section 7060 reflects and effectuates Health and Safety Code Section 1179.57(b).

Section 7061 . Appeals.

Health and Safety Code Section 1179.57 (a) specifies that the Authority must develop evaluation criteria and a process for awarding grants, taking into account at least certain factors when selecting recipients and determining the amount of grants. Section 7061 establishes an appeals process as a reasonable means of enabling applicants to request reconsideration of certain staff determinations regarding applications. The provision describes the circumstances under which an appeal may be filed, the timing of the appeal, and the review of the appeal by the staff. The provision also describes the manner to appeal to the Authority.

The addition of Section 7061 reflects and effectuates Health and Safety Code Section 1179.57.

Section 7062. Approval of Grant and Notification of Grantee.

Section 7062 establishes a process by which final allocations are approved by the Authority and grantees are notified of the amount approved. The Act specifies that the Authority is authorized to award grants, but does not specify the process. Section 7062 clarifies the Authorities approval process and specifies the time and manner that the grantee will be notified.

The addition of Section 7062 reflects and effectuates Health and Safety Code Sections 1179.55 and 1179.57(b)(2).

Section 7063. Any Remaining Funds.

Health and Safety Code Section 1179.59 specifies \$980 million will be available to the Authority for the purpose of issuing grants. In the event total funds requested are less than total funds available, a process is established that enables the Authority to distribute any unused funds in a Second Funding Round in a manner that is consistent with the purpose and requirements of the Children's Hospital Program of 2008

Section 7063 has been added to enable the Authority to distribute any unused funds in the event total funds requested are less than total funds available.

The addition of Section 7063 reflects and effectuates Health and Safety Code Section 1179.57(c) and (d).

Section 7064. Approval of Grant Use Change

Section 7064 enables the Authority or the Authority staff to approve a change in the use of the grant if the grantee demonstrates the change is consistent with the intent of the Act.

This section addresses situations in which a grantee may have discovered, in the time period following approval of a grant project, that the original intent for a portion of a grant award may no longer be financially or operationally sound for that organization.

The addition of Section 7064 reflects and effectuates Health and Safety Code Section 1179.57 (b) and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7065 . Grant Agreements.

Section 7065 details the terms and conditions that will be set forth in a grant agreement so the

Authority may ensure the grantee will use the grant award in a manner consistent with the Children's Hospital Program.

Section 7065 has been added to ensure all grantees certify to certain terms and conditions to receive a grant. This requirement is reasonably necessary to ensure that grantees meet the requirements of the Act as made specific by these regulations.

The addition of Section 7065 reflects and effectuates Health and Safety Code Section 1179.55 and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7066 . Release of Funds for Non-University of California Children’s Hospitals.

Section 7066 makes specific the process of releasing grant funds as grant awards for Non-University of California Children’s Hospitals.

Health and Safety Code Section 1179.57 (a)(6) specifies that the Authority shall release no funds until an applicant demonstrates project readiness to the Authority’s satisfaction. In addition, Health and Safety Code Section 1179.57 (f) specifies that the Authority shall release no funds unless the Authority determines it has sufficient money available in the grant fund.

7066(a) and (b) specify the documentation that is necessary to demonstrate readiness for non-University of California Children’s Hospitals fund disbursement and clarifies that the documentation must clearly show the grant funds requested do not exceed the cost of the project.

7066(c) describes the manner in which funds will be disbursed.

7066(d) states that credit for investment earnings on any previously released portion of Grant shall be paid to the Authority prior to final release of Grant funds to the Grantee.

The addition of Section 7066 reflects and effectuates Health and Safety Code Section 1179.57 and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7067 . Release of Funds for University of California Children’s Hospitals.

Section 7067 makes specific the process of releasing grant funds as grant awards for University of California Children’s Hospitals.

Health and Safety Code Section 1179.57 (a)(6) specifies that the Authority shall release no funds until an applicant demonstrates project readiness to the Authority’s satisfaction. In addition, Health and Safety Code Section 1179.57 (f) specifies that the Authority shall release no funds unless the Authority determines it has sufficient money available in the grant fund.

7067 (a) and (b) specify the documentation that is necessary to demonstrate readiness for University of California Children’s Hospitals fund disbursement and clarifies that the documentation must clearly show the grant funds requested do not exceed the cost of the project.

7067(c) describes the manner in which funds will be disbursed.

The addition of Section 7067 reflects and effectuates Health and Safety Code Section 1179.57 and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7068. Requirements for Construction Projects on Leased Property

Section 7068 makes specific the requirements for lease agreements for grant award projects that include construction on leased property. Section 7068(a) clarifies that a project may include construction on leased property and specifies the requirements of the hospital's lease agreement. 7068(b) provides a definition of affiliate.

Health and Safety Code Section 1179.51(g) defines a project as constructing, expanding, remodeling, renovating, furnishing, equipping, financing, or refinancing of a children's hospital. There are eligible children's hospitals, as defined in Section 1179.51 (b)(1) and (2) of the Health and Safety Code, whose facilities are leased from an affiliate or non-affiliated organization.

The addition of Section 7068 clarifies the definition of project in Health and Safety Code Section 1179.51(g) and is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7069. Completion of a Grant Funded Project.

Section 7069 makes specific the verification required from the grantee for submission to the Authority once the grant-funded project is complete. Section 7069 also states that the Authority may require remedies if the Grantee fails to complete the Project within a defined project period.

Health and Safety Code Section 1179.57(f) states that a children's hospital receiving a grant under this part shall submit certification of project completion to the authority. This is necessary to confirm that grant award projects are completed within a reasonable period of time under the terms specified in awarding the grant. Section 7069 also mirrors Section 1179.57(f) of the Code regarding remedies.

The addition of Section 7069 is necessary in order to implement the Program and to conform the regulation to the statute.

Section 7070. Recovery of Funds for Non-Performance and Unused Funds.

Section 7070(a) details the terms by which grant funds must be returned to the Authority due to non-compliance with the Program. Section 7070(b) specifies that forfeited grant funds are to be deemed remaining funds for purposes of Section 7063.

Health and Safety Code Section 1179.57(f) specifies that the Authority may require

remedies, including the return of all or a portion of the grant, if the Authority determines that the grantee failed to complete the project under the terms specified in awarding the grant.

The addition of Section 7070 reflects and effectuates Health and Safety Code Section 1179.57 and is necessary in order to implement the Program and to conform the regulation to the statute.

Health and Safety Code Section 1179.57(f) provides that if an eligible hospital fails to complete its project under the terms specified in awarding the grant, the Authority may require all or a portion of the grant be returned.

Section 7071 . Audits.

Health and Safety Code Section 1179.58 provides that the Bureau of State Audits may conduct periodic audits to ensure that awardees of bond proceeds are using funds in compliance with applicable provisions of the Program.

Section 7071 interprets and makes specific this provision by requiring grantees to retain all Program and financial data and to provide audited information to the California Bureau of State Audits or Authority upon request.

The purpose of Section 7071 is to enable the Authority or the Bureau of State Audits to verify that the Children's Hospital Program requirements have been met by an organization. To ensure compliance, it is reasonably necessary to require grantees to retain all necessary Program and financial data and to provide audited information to the Authority upon request.

The addition of Section 7071 reflects and effectuates Health and Safety Code 1179.58 and is necessary in order to implement the Program and to conform the regulation to the statute